

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-219560.2 DATE: September 5, 1985  
MATTER OF: R&B Equipment Company

DIGEST:

Protest is untimely where protester received amendment to IFB 2 working days before bid opening and did not file protest based on alleged improprieties apparent on the face of the solicitation until after bid opening.

R&B Equipment Company (R&B) protests any award under invitation for bids No. F34650-85-B-0193, issued by the Department of the Air Force (Air Force) to replace air conditioning in a building at Tinker Air Force Base, Oklahoma. R&B alleges that the Air Force failed to allow sufficient time for bidders to consider an amendment to the solicitation and that the amendment's specifications were unduly restrictive of competition.

We dismiss the protest as untimely.

R&B alleges that the amendment, dated June 18, 1985, was received by bidders no more than 2 working days before the bid opening date, which did not give them an opportunity to respond to the amendment. R&B also contends that the amendment's specifications unduly restricted the number of centrifugal refrigeration equipment suppliers who could respond to the solicitation. R&B's oral protest of these issues to the Air Force on July 3, 1985, 9 days after the bid opening date, was denied on August 13, 1985, as untimely.

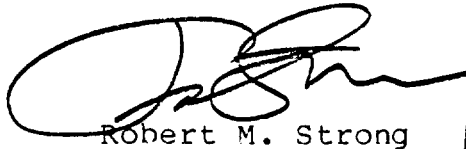
R&B's protest is based on alleged improprieties apparent on the face of the solicitation. Our Bid Protest Regulations require protests on these grounds to be filed prior to bid opening so that corrective action, if appropriate, may be taken before bids are opened and competitors' prices exposed. 4 C.F.R. § 21.2(a)(1) (1985); J.E. Steigerwald Company, Inc., B-218536, Apr. 19, 1985, 85-1 C.P.D. ¶ 453. Since R&B did not protest to the Air Force until 9 days after bid opening, its protest is untimely.

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Where, as here, a protest is filed first with the contracting agency, a subsequent protest to our Office will be considered only if the initial protest was timely. 4 C.F.R. § 21.2(a)(3). Since R&B's initial protest was not timely filed with the Air Force, its subsequent protest to our Office also is untimely and will not be considered. See Ross Bicycles, Inc., B-217179, B-217547, June 26, 1985, 85-1 C.P.D. ¶ 722.

R&B argues that bidders could not have filed a protest in the short period of time between receipt of the amendment and bid opening. We do not agree. In similar situations, we have found that a period of as little as 2 days afforded a bidder a reasonable opportunity to file a protest before bid opening. See, e.g., Reliance Steel Products Company, B-206754, Jan. 24, 1983, 83-1 C.P.D. ¶ 77; Cybermedic, B-200628, May 19, 1981, 81-1 C.P.D. ¶ 380.

The protest is dismissed.



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